

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION

CARTERET INVESTMENT ASSOCIATES,	§	
LLC and CARTERET SURGICAL	§	
ASSOCIATES, P.A.,	§	
	§	
Plaintiffs	§	
	§	
v.	§	CIVIL ACTION NO. 4:21-cv-00157
	§	
MT. HAWLEY INSURANCE COMPANY and	§	
MAG MUTUAL INSURANCE COMPANY,	§	
	§	
Defendants.	§	

**DEFENDANT MT. HAWLEY INSURANCE COMPANY’S NOTICE OF REMOVAL**

Defendant Mt. Hawley Insurance Company (“Mt. Hawley”) files this Notice of Removal of this action from the Superior Court of Carteret County, North Carolina to the United States District Court for the Eastern District of North Carolina, Eastern Division, the district and division in which the Superior Court of Carteret County is located. This Notice of Removal is filed pursuant to 28 U.S.C. §§ 1441 and 1446. In support hereof, Defendant respectfully shows this Court as follows:

1. Plaintiffs Carteret Investment Associates, LLC and Carteret Surgical Associates, P.A. (collectively, “Plaintiffs”) commenced an action against Mt. Hawley and Mag Mutual Insurance Company (“Mag Mutual”) in the Superior Court of Carteret County, North Carolina, entitled *Carteret Investment Associates, LLC and Carteret Surgical Associates, P.A. v. Mt. Hawley Insurance Company and Mag Mutual Insurance Company*, pending as Case No. 21 CVS 907 (the “State Court Case”).

2. On September 22, 2021, Mt. Hawley was served with Plaintiffs' Complaint ("Complaint") in the State Court Case via service on the North Carolina Commissioner of Insurance. *See Exhibit B*. As such, removal is timely because thirty (30) days have not elapsed since Mt. Hawley first received the Complaint, as required by 28 U.S.C. § 1446(b).

3. A copy of this Notice of Removal will be filed with the Superior Court in Carteret County, North Carolina, and a copy of this Notice of Removal will also be served on Plaintiffs. Mt. Hawley is, contemporaneously with the filing of this Notice, giving written notice of filing of this Notice of Removal with the clerk of the Superior Court of Carteret County, North Carolina.

4. All documents filed in the State Court Case are attached hereto as **Exhibits A-C**.

5. Mt. Hawley requests a trial by jury.

6. Mt. Hawley has filed contemporaneously a civil cover sheet and a supplemental removal cover sheet.

#### **Ground for Removal: Diversity**

7. This Court has original jurisdiction over this case pursuant to 28 U.S.C. § 1332, in that this is a civil action where the matter in controversy exceeds \$75,000 and is between citizens of different States.

A. The amount in controversy exceeds the federal minimum jurisdictional requirements.

8. Plaintiffs' Complaint in the State Court Case contends that its properties sustained damage covered under a policy of property insurance issued by Mt. Hawley (the "Mt. Hawley Policy") and a policy of property insurance issued by Mag Mutual (the "Mag Mutual Policy"). *See Exhibit A* (Complaint) at pp 2-4. Plaintiffs' Complaint alleges that Mt. Hawley breached the Mt. Hawley Policy by failing to pay Plaintiffs' claim in full. *See id.* at pp. 6-7. Plaintiffs' Complaint alleges that they had to spend \$1,300,803.36 to make repairs to the subject property, and that these

repairs were “the result of a covered loss insured by [Mt. Hawley].” *See id.* at pp. 6-7. Plaintiffs further allege that Mt. Hawley only made payments totaling \$209,155.94. *See id.* at pp. 5-6. Accordingly, the amount in controversy is well over \$75,000, exclusive of interest and costs.

B. There is complete diversity between Plaintiff and Mt. Hawley.

9. Plaintiff Carteret Investment Associates, LLC was at the time of the filing of this action, has been at all times since, and still is a limited liability company organized under the laws of North Carolina with its principal places of business in North Carolina. The members of Carteret Investments Associates, LLC are Thomas E. Bates; Garlon L. Campbell; Angela Clark; Robert E. Coles; Ashraf F. Guirgues; John T. Johnson, Jr.; Arthur G. Klose; and Dean R. Marson, all of whom are residents and citizens of North Carolina. Accordingly, Plaintiff Carteret Investment Associates, LLC is a citizen of the State of North Carolina for purposes of determining diversity jurisdiction, and not a citizen of the State of Illinois or Georgia.

10. Plaintiff Carteret Surgical Associates, P.A. was at the time of the filing of this action, has been at all times since, and still is a Professional Corporation organized under the laws of North Carolina with its principal place of business in North Carolina. Accordingly, Plaintiff Carteret Surgical Associates, P.A. is a citizen of the State of North Carolina for purposes of determining diversity jurisdiction, and not a citizen of the State of Illinois or Georgia.

11. Defendant Mt. Hawley is a corporation organized under the laws of Illinois, with its principal place of business in Illinois. Accordingly, Mt. Hawley is a citizen of the State of Illinois for purposes of determining diversity jurisdiction, and not a citizen of the State of North Carolina.

12. Defendant Mag Mutual is a corporation organized under the laws of Georgia, with its principal place of business in Georgia. Accordingly, Mag Mutual is a citizen of the State of

Georgia for purposes of determining diversity jurisdiction, and not a citizen of the State of North Carolina.

13. Complete diversity exists in this case and removal is proper because Plaintiffs are citizens of North Carolina, and Mt. Hawley and Mag Mutual are citizens of Illinois and Georgia, respectively.

14. Defendant Mag Mutual has been served with the Complaint in the State Court Case. *See Exhibit C.* Mag Mutual has expressly consented to this removal to federal court, and Mag Mutual will reaffirm that consent pursuant to a separate filing with the Court upon receipt of this Notice.

WHEREFORE, Defendant Mt. Hawley Insurance Company pray that the above-described action now pending in the Superior Court of Carteret County, North Carolina, be removed to this Court.

This, the 21<sup>st</sup> day of October, 2021.

Respectfully submitted,

YOUNG MOORE & HENDERSON P.A.

By: /s/ Matthew J. Gray  
MATTHEW J. GRAY  
N.C. State Bar No. 31553  
CHRISTY C. DUNN  
N.C. State Bar No. 54816  
3101 Glenwood Avenue, Suite 200  
Raleigh, NC 27612  
(919) 782-6860  
(919) 782-6753 (Fax)  
[Matt.Gray@youngmoorelaw.com](mailto:Matt.Gray@youngmoorelaw.com)  
[Christy.Dunn@youngmoorelaw.com](mailto:Christy.Dunn@youngmoorelaw.com)  
*Local Civil Rule 83.1(d) Counsel for  
Defendant Mt. Hawley Insurance Company*

and

Greg K. Winslett (to be admitted *pro hac vice*)  
Texas State Bar No. 21781900  
Jonathan A. Lautin (to be admitted *pro hac vice*)  
Texas State Bar No. 24092669  
QUILLING SELANDER LOWNDS  
WINSLETT & MOSER PC  
2001 Bryan Street, Suite 1800  
Dallas, Texas 75201  
(214) 871-2100  
(214) 871-2111 (Fax)  
[gwinslett@qslwm.com](mailto:gwinslett@qslwm.com)  
[jlautin@qslwm.com](mailto:jlautin@qslwm.com)  
**ATTORNEYS FOR DEFENDANT MT.  
HAWLEY INSURANCE COMPANY**

## **CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the above and foregoing instrument is being served upon counsel for Plaintiff, via certified mail, return receipt requested, in accordance with the Federal Rules of Civil Procedure, on this 21<sup>st</sup> day of October, 2021, as follows:

Wesley A. Collins  
Harvell and Collins, P.A.  
1107 Bridges Street  
Morehead City, North Carolina 28557  
[input@harvellandcollins.com](mailto:input@harvellandcollins.com)  
[wcollins@harvellandcollins.com](mailto:wcollins@harvellandcollins.com)  
*Attorneys for Plaintiffs*

P.K. Shere  
Huff Powell Bailey  
3737 Glenwood Ave., Suite 370  
Raleigh, NC 27612  
[pkshere@huffpowellbailey.com](mailto:pkshere@huffpowellbailey.com)  
*Attorneys for Defendant*  
*Mag Mutual Ins. Co.*

YOUNG MOORE & HENDERSON P.A.

By: /s/ Matthew J. Gray  
MATTHEW J. GRAY  
N.C. State Bar No. 31553  
CHRISTY C. DUNN  
N.C. State Bar No. 54816  
3101 Glenwood Avenue, Suite 200  
Raleigh, NC 27612  
(919) 782-6860  
(919) 782-6753 (Fax)  
[Matt.Gray@youngmoorelaw.com](mailto:Matt.Gray@youngmoorelaw.com)  
[Christy.Dunn@youngmoorelaw.com](mailto:Christy.Dunn@youngmoorelaw.com)  
*Local Civil Rule 83.1(d) Counsel for*  
*Defendant Mt. Hawley Insurance Company*